

for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: "License Event Report."

3. The form number if applicable: NRC Forms: 366, 366A, and 366B.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Holders of Operating Licenses for Commercial Nuclear Power Plants.

6. An estimate of the number of responses: 1,500 per year.

7. An estimate of the total number of hours needed annually to complete the requirement or request: Approximately 50 hours per response. The total industry burden is 75,000 hours.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not Applicable.

9. Abstract: NRC collects reports of operational events at commercial nuclear power plants in order to incorporate lessons of that experience in the licensing process and to feed back the lessons of that experience to the nuclear industry.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20037. Comments and questions can be directed by mail to the OMB reviewer:

Troy Hillier, Office of Information and Regulatory Affairs (3150-0104), NEOB-10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 415-7230.

Dated at Rockville, Maryland this 6th day of February 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95-3373 Filed 2-9-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-313/368, 72-1007]

In the Matter of Entergy Operations, Inc. (Arkansas Nuclear One); Sierra Nuclear Corporation; Director's Decision Under 10 CFR 2.206 (DD-95-03)

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, has taken action with regard to the Petition of July 5, 1994, by Dennis Dums, on behalf of the

Wisconsin Citizen's Utility Board, requesting that the Chairman exercise his authority to: (1) Determine the applicability of 10 C.F.R. 72.48 to 10 C.F.R. part 72 subparts K and L; (2) determine whether Entergy Operations, Inc. (Entergy) is in violation of any U.S. Nuclear Regulatory Commission regulations regarding use of 10 C.F.R. 72.48 to make modifications to the VSC-24 cask for use at Arkansas Nuclear One (ANO); (3) order ANO to cease using 10 C.F.R. 72.48 until NRC determines whether or not it is applicable; (4) order Sierra Nuclear Corporation to cease construction of VSC-24 casks for use at ANO that are being constructed based on ANO's 10 C.F.R. 72.48 evaluation. Notice of Receipt of Petition for Director's Decision under 10 C.F.R. 2.206, dated August 16, 1994, was published in the **Federal Register** on August 24, 1994 (59 FR 43594).

The Director of the Office of Nuclear Material Safety and Safeguards has determined to grant in part and deny in part the actions requested by the Petition. The reasons for this decision are explained in the "Director's Decision under 10 C.F.R. 2.206" (DD-95-03), which is published below.

A copy of the decision will be filed with the Office of the Secretary for the Commission in accordance with 10 C.F.R. 2.206(c) of the Commission's regulations. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after the date of issuance of the decision unless the Commission on its own motion institutes a review of the decision within that time.

Copies of the Petition, dated July 5, 1994, and the Notice of Receipt of Petition for Director's Decision under 10 C.F.R. 2.206 that was published in the **Federal Register** on August 24, 1994 (59 FR 43594), and other documents related to this Petition are available in the NRC Public Document Room, the Gelman Building, 2120 L Street, NW. (Lower Level), Washington, DC 20555 and Local Public Document Room at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Dated at Rockville, Maryland, this 31st day of January 1995.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety and Safeguards.

Introduction

By Petition dated July 5, 1994 (Petition), Dennis Dums, on behalf of the Wisconsin Citizen's Utility Board

(Petitioner), filed a request pursuant to 10 C.F.R. 2.206 that the U.S. Nuclear Regulatory Commission (NRC): (1) Determine the applicability of 10 C.F.R. 72.48 to 10 C.F.R. Part 72 Subparts K and L; (2) determine whether Entergy Operations, Inc. (Entergy) is in violation of any NRC regulations regarding use of 10 C.F.R. 72.48 to make modifications to the VSC-24 cask for use at Arkansas Nuclear One (ANO); (3) order ANO to cease using 10 C.F.R. 72.48 until NRC determines whether or not it is applicable; (4) order Sierra Nuclear Corporation (SNC) to cease construction of VSC-24 casks for use at ANO that are being constructed based on ANO's 10 C.F.R. 72.48 evaluation.

By letter to Mr. Dennis Dums, dated August 16, 1994, I acknowledged receipt of the Petition. Notice of receipt was published in the **Federal Register** on August 24, 1994 (59 FR 43594). For the reasons given below, I have now concluded that the Petitioner's request should be granted in part and denied in part.

Background

The Petitioner submitted its July 5, 1994, request to NRC in connection with an earlier letter to NRC dated June 2, 1994, from Entergy, an NRC licensee under 10 CFR part 50, which operates ANO Units 1 and 2 near Russellville, Arkansas. In its June 2 letter, Entergy had briefly described its plans for spent nuclear fuel storage at ANO, involving use of the VSC-24 dry cask, in accordance with the general license of 10 CFR Part 72, Subpart K. Entergy had also stated in the June 2 letter that its use of the VSC-24 would involve minor changes to the cask design. According to Entergy's July 2 letter, the specific changes involved lengthening the approximately eighteen foot VSC-24 by about 11 inches in order to accommodate the slightly longer ANO Unit 2 fuel.

The June 2 letter went on to advise NRC of Entergy's conclusions that section 72.48 of the Commission's regulations applied to the changes Entergy proposed to make to the cask for use at ANO. It was this statement by Entergy regarding the applicability of 72.48 that apparently prompted the Petition that is the subject of this decision.

Section 72.48 of the Commission's regulations covers "Changes, tests, and experiments" that may be made by the "holder of a license issued under this part" without prior Commission

approval.¹ Specifically with regard to its determination to use section 72.48, Entergy's June 2 letter contended that the minor changes proposed for the VSC-24 cask were covered by a "plain reading" of the regulations. It argued the general license issued under 10 CFR part 72 was a license "issued under this part," and that the minor changes to the VSC-24 by Entergy, as the license "holder," could therefore be made to address site-specific considerations "as determined necessary" by Entergy. It also contended its approach was consistent with the regulatory background of the general license, particularly the Commission's objective to provide for "a regulatory framework allowing on-site spent fuel storage 'without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'" (55 FR 29181)." Entergy Letter at 2.

It is the foregoing determination by Entergy with which the Petition takes issue.

The Petition asserts as bases for its requests that: Entergy is currently pursuing spent fuel storage at ANO through use of 10 CFR Subparts K and L; ANO currently intends to utilize the VSC-24 constructed by vendor SNC under an SAR submitted in October 1991, and safety evaluation report (SER), issued by the NRC in April 1993; and NRC response, dated January 31, 1994, to an October 13, 1993, public request for information, stated that Subparts K and L of 10 CFR Part 72 are silent on cask SAR and certificate changes after the final rule; an ANO request for a rule exemption to 10 CFR 72.234(c) was granted by the NRC to allow for the fabrication of four VSC-24 casks to the longer length prior to NRC approval of SNC's June 14, 1993, submittal of Revision 1 to the 1991 VSC-24 Cask SAR; a February 14, 1994, memorandum to NRC Assistant General Counsel Treby requested a legal interpretation of the applicability of 10 CFR 72.48 to general licenses issued under 10 CFR 72.210; a May 19, 1994, meeting was held regarding SNC's revisions to the VSC-24 SAR and the applicability of 10 CFR 72.48 to general license users, as well as a June 3, 1994,

memorandum regarding this meeting which stated that "the licensee can make its own interpretation of the regulations;" and a letter dated June 2, 1994, from Entergy to the NRC which stated that Entergy has directed SNC to fabricate all fourteen planned casks with the increased length and that Entergy plans to continue to conduct evaluations in accordance with 10 CFR 72.48.

Entergy has not filed any comments with the NRC following publication of the Petition.

Discussion

As the discussion that follows will set forth in detail, we have determined that ANO, as a general licensee under 10 C.F.R. 72.210, can make use of 10 CFR 72.48. This determination is based first on the words of 10 C.F.R. 72.48 itself which are fully consistent with use of the authority in that section by a general licensee. Second, the determination is based on regulatory policy considerations. These include the extensive NRC safety review at the time of cask approval, the limited nature of the subsequent changes permitted under 10 C.F.R. 72.48, and the fact that NRC regulations in other contexts and over many years have permitted utilities such as ANO to make similar types of changes to nuclear facilities that involve safety issues previously reviewed by NRC.

This approach is well suited to the 10 C.F.R. Part 72 general license framework, especially given the Congressional purpose underlying the Nuclear Waste Policy Act of 1982 that directed the NRC to establish a licensing framework for spent fuel storage technologies that can be approved by the Commission for use at reactor sites "without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission" (55 FR 29181). Because 10 C.F.R. 72.48 permits certain changes by a licensee without Commission approval, making it available to general licensee's will further this Congressional purpose.

A. The Language of Section 72.48.

An analysis of the pertinent NRC regulations regarding use of 10 C.F.R. 72.48 by a general licensee shows that ANO's use of that authority is covered by the regulations. The relevant regulations and our analysis of them are given below.

10 CFR 72.48(a)(1) provides as follows:

*The holder of a license issued under this part may: (i) Make changes in the ISFSI * * * described in the Safety Analysis Report, * * * (iii) * * **

without prior Commission approval, unless the proposed change, test or experiment involves a change in the license conditions incorporated in the license, an unreviewed safety question, a significant increase in occupational exposure or a significant unreviewed environmental impact. (Emphasis added.)

Further 10 CFR 72.210 provides as follows:

A general license is hereby issued for the storage of spent fuel in an independent spent fuel storage installation at power reactor sites to persons authorized to possess or operate nuclear power reactors under Part 50 of this chapter. (Emphasis added.)

In order to determine whether 10 C.F.R. 72.48 can be interpreted to cover the general license in section 72.210, the first question is whether the general licensee is "the holder of a license issued under this part," as required for the application of 10 CFR 72.48. We think the language of § 72.210 answers this question. The phrase "[a] general license is hereby issued," leaves no doubt the general license is "a license issued under this part." Because a general licensee is "the holder of a license issued under this part," § 72.48(a)(1) therefore applies.

The second question, in order to determine if 10 CFR 72.48 can be interpreted to apply to a general license, is whether changes to a certified cask by a general licensee can appropriately be termed "changes in the ISFSI * * * described in the Safety Analysis Report," as required for the application of 10 CFR 72.48. We think the language of § 72.210 also resolves this issue. Specifically, the regulatory language of the general license authorizes "storage * * * in an independent spent fuel storage installation * * * in casks approved under the provisions of this part."² (Emphasis added.) The ISFSI under the general license incorporates the NRC approved casks. Further the NRC's approved casks under the general license are ISFSI components described in a safety analysis report and, specifically, in the cask vendor safety analysis report (SAR).³ Therefore, changes to an NRC-approved cask, used in an ISFSI, by the general licensee literally are "changes in the ISFSI * * * described in the Safety Analysis Report," and therefore are reasonably

¹ In particular, section 72.48(a)(1) provides in pertinent part as follows:

The holder of a license issued under this part may:

(i) Make changes in the ISFSI [i.e., independent spent fuel storage installation] * * * described in the Safety Analysis Report * * *

* * * without prior Commission approval, unless the proposed change * * * involves a change in the license conditions incorporated in the license, an unreviewed safety question, a significant increase in occupational exposure or a significant unreviewed environmental impact.

² See 10 CFR 72.212(a)(2) ("This general license is limited to storage of spent fuel in casks approved under the provisions of this part.")

³ See 10 CFR 72.230(a) ("A safety analysis report describing the proposed cask design and how the cask should be used to store spent fuel safely must be included with the application.")

covered by the words of section 72.48(a)(1).⁴

B. Regulatory Policy Considerations

The foregoing analysis of the applicable regulations is fully supported by the policy underlying NRC's program for generic cask approvals. In particular, NRC generic approval of a cask certifies the cask for use under a range of environmental conditions sufficiently broad to encompass most sites within the United States, by using conservative requirements that make safety of an approved cask independent of the effects of site-specific phenomena. During the review of the SAR, NRC considers all credible accidents that could harm the cask. We analyze: drops, tipovers, lighting, floods, high and low temperatures, tornadoes, explosions, and other conditions. Using the safety analyses relied on by the NRC for the generic approval, a general licensee must thereafter establish that the cask is suitable for the environmental conditions of the licensee's site. However, use of the generically approved cask does not require additional NRC site-specific approvals, provided the conditions in the general license and the cask certificate are met.

The NRC's generic approval of a dry cask, without any site-specific approval, fulfills the express intent of the Congress. In the Nuclear Waste Policy Act of 1982, Congress directed the government (NRC and the Department of Energy) to establish a program allowing the NRC to approve spent fuel storage technologies "by rule * * * without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission." 42 U.S.C. 10198(a). If NRC were to require site-specific Commission approval of every change to an approved cask by a general licensee—even changes that did not involve any site-specific unreviewed environmental condition or safety issue—then its action could be viewed as seriously undermining the statutory policy supporting general cask approvals without, to the maximum extent practicable, requiring additional NRC site-specific approvals.

10 CFR 72.48 is limited to changes that do not involve "a change in the license conditions incorporated in the license, an unreviewed safety question,"⁵

a significant increase in occupational exposure or a significant unreviewed environmental impact." If the proposed change involves a generic change to the certificate of compliance or any of the certificate's conditions then an application must be filed with the Commission for approval for this generic change.

The general licensee must also satisfy other requirements under section 72.48. For example, 10 CFR 72.48 requires that a licensee must permanently "maintain records of changes in the ISFSI" which "include a written safety evaluation that provides the bases for the determination that the change * * * does not involve an unreviewed safety question." The NRC may examine these records during an inspection and take appropriate action if the changes made by the licensee do not comply with the regulations. Additionally, 10 CFR 72.48 requires that the licensee must annually furnish the NRC a report containing a brief description of the changes.

The decision whether a proposed change involves an unreviewed safety question is made initially by the licensee but can be reviewed by the NRC. If the NRC disagrees with the licensee's decision, the agency may, upon review, take appropriate enforcement action. To facilitate review of a licensee's decision during subsequent inspections, the NRC promulgated the record keeping and reporting requirements described above, thus requiring the licensee to maintain records related to the licensee's decision under 10 CFR 72.48.

There is a similar rule under 10 CFR Part 50 for production and utilization facilities. 10 CFR 50.59 allows utilities to make changes to their power plants under circumstances comparable to those circumstances covered by 72.48. In particular, 10 CFR 50.59 specifically allows a reactor licensee to modify its facility without prior NRC approval unless the modification involves a change in the technical specifications incorporated in the facility license or involves an unreviewed safety question. The definition and criteria in 10 CFR 50.59 for identifying whether a proposed change involves an unreviewed safety question are identical to those in 10 CFR 72.48. If the

proposed change does involve either an unreviewed safety question or a change in the technical specifications, then the licensee must apply for an amendment to its license. For decades the NRC has allowed its licensees in the first instance to review proposed changes in their facilities to determine whether changes in technical specifications are involved or unreviewed safety questions are presented. The NRC would not be sensibly allocating its limited resources if the agency itself were to expressly review and approve every single facility change, whether or not it raises an unreviewed safety question. Rather, NRC retains an oversight function for enforcement purposes, supported by requirements for licensees to retain and preserve all records of 50.59 changes, just as they must retain all records of 72.48 changes. See *Kelley v. Selin*, No. 93-3613, Slip opinion at 11 (6th Cir., Jan. 11, 1995) ("* * * NRC's historical method of regulation * * * has long allowed licensees to make initial determinations about changes to their facilities and has enabled the agency to retain its enforcement power. 10 CFR 50.59.")

Thus, for all of the foregoing reasons, we have determined that ANO, and any other general licensee under Subpart K, can make use of the authority in 10 CFR 72.48 to make changes that comply with the requirements of that section. We accordingly have no basis and therefore are declining to take enforcement action against ANO at this time. However, in our continuing regulatory oversight of ANO and other general licensees, we reserve the right to review any change made under 10 CFR 72.48 and take appropriate followup action.

Conclusion

Based on a review of the regulations and taking into account the relevant policy considerations, NRC staff has determined that 10 CFR 72.48 can be used by all Part 72 licensees. Therefore, the Petitioner's request to (1) determine the applicability of 10 CFR 72.48 to 10 CFR Part 72, Subparts K and L; and (2) determine whether Entergy is in violation of any NRC regulations regarding use of 10 CFR 72.48 has been granted. Further, in light of the foregoing determination that Entergy can make use of 10 CFR 72.48, the Petitioner's request to (3) order ANO to cease using 10 CFR 72.48 until NRC determines whether or not it is applicable, and (4) order Sierra Nuclear Corporation to cease construction of VSC-24 casks for use at ANO has therefore been denied.

⁴ Commission policy already permits changes to a cask design approved by NRC in a site-specific licensing proceeding; this determination results in similar treatment for designs approved in rulemaking.

⁵ Under 10 CFR 72.48, a proposed change involves an unreviewed safety question if:

(i) the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the Safety Analysis Report (SAR) may be increased;

(ii) the possibility for an accident or malfunction of a different type than any evaluated previously in the SAR may be created; or

(iii) the margin of safety as defined in the basis for any technical specification is reduced.

Dated at Rockville, Maryland, this 31st day of January 1995.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. 95-3374 Filed 2-9-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-498 and 50-499]

Houston Lighting and Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

This document corrects a general notice appearing in the **Federal Register** on January 30, 1995 (60 FR 5739), in which the NRC is considering issuance of amendments to Facility Operating License Nos. NPF-76 and NPF-80, issued to Houston Lighting and Power Company, et al., for operation of the South Texas Project, Units 1 and 2, located in Matagorda County, Texas. This notice is necessary to correct an erroneous date.

On page 5740, in the first sentence of the second full paragraph in the first column, the date "February 14, 1995".

Dated at Rockville, Maryland, this 3rd day of February 1995.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate IV-1, Division of Reactor Projects III/IV; Office of Nuclear Reactor Regulation.

[FR Doc. 95-3375 Filed 2-9-95; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Draft Security Tenets for the National Information Infrastructure

AGENCY: Office of Management and Budget.

ACTION: Notice and request for comments.

SUMMARY: OMB is publishing these draft Security Tenets for the National Information Infrastructure (NII) on behalf of the Security Issues Forum of the Information Infrastructure Task Force. The Tenets were developed by the Forum to help support the secure use of the NII. The Forum is chaired by OMB. OMB has not adopted these Security Tenets as policy, but is

publishing them in the belief that they are worthy of public discussion.

DATES: Comments should be submitted no later than April 11, 1995.

ADDRESSES: Comments should be sent to the Security Issues Forum c/o the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10236, Washington, DC 20503. The Tenets can be downloaded from the IIFT gopher/bulletin board system: 202-501-1920. The IIFT gopher/bulletin board can be accessed through the Internet by pointing your gopher client to IIFT.DOC.GOV or by telnet to IIFT.DOC.GOV and logging in as GOPHER. Electronic comments may be sent to HUTH_V@A1.EOP.GOV. (Note: e-mail address is A1, not AL.

FOR FURTHER INFORMATION CONTACT:

Ms. Virginia Huth, NII Security Issues Forum, Office of Management and Budget, Washington, DC 20503. Voice telephone: 202-395-3785. Facsimile: 202-395-5167. E-mail: HUTH_V@A1.EIP.GOV. (Note: e-mail address is A1, not AL.)

SUPPLEMENTARY INFORMATION:

Government has an important public mission to support the secure use of the NII. In order for the support to be effective, the Government must cooperate with the private sector and with the public-at-large in setting legal and policy ground rules for security in the NII. The Security Issues Forum provides leadership for Federal NII security activities. The Security Tenets are an early step in the development of an "NII Security Plan" to define the security requirements for the NII and to determine needed policy, technology, and managerial controls, and what the Federal role will be to assure that those needs are fulfilled. The NII Security Plan will also incorporate the security principles developed by the Organization for Economic Cooperation and Development.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

Security Tenets for the National Information Infrastructure

Security is a critical component of the National Information Infrastructure (NII). NII participants must have confidence that the NII is a trustworthy, reliable system, or they will not use it.

NII security includes the integrity, confidentiality, and availability of the NII and of the information in the NII. In general, people who use the NII want to know that their information goes where and when they want it to, and nowhere else. From this general proposition flow

five security tenets that the NII should provide the people who use it.

(1) The ability to control who sees (or cannot see) their information and under what terms;

(2) The ability to know who they are communicating with and that information received comes from who it says it is from;

(3) The ability to know that information stored or transmitted is unaltered;

(4) The ability to know when information and communication services will (or will not be) available; and

(5) The ability to block unwanted information or intrusions.

Two conditions attach to these security tenets:

(1) None of these tenets is absolute. For each tenet there may be valid societal reasons—such as an emergency or a need to protect another's rights—that cause the tenet to be conditional in some manner.

(2) Each tenet requires NII participants to take responsibility for establishing the terms and conditions under which they will exchange information. The distributed and empowered nature of this technology demands a greater level of responsibility. Education of NII participants is thus a critical task.

[FR Doc. 95-3408 Filed 2-9-95; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Advisory Committee on Trade Policy and Negotiations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the February 9, 1995 meeting of the Advisory Committee on Trade Policy and Negotiation will be held from 10:00 a.m. to 2:00 p.m. The meeting will be closed to the public from 10:00 a.m. to 1:15 p.m. The meeting will be open to the public from 1:15 p.m. to 2:00 p.m.

SUMMARY: The Advisory Committee on Trade Policy and Negotiation will hold a meeting on December 6, 1994 from 10:00 a.m. to 2:00 p.m. The meeting will be closed to the public from 10:00 a.m. to 1:15 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this portion of the meeting will be concerned with matters